

ORDINANCE NO. 267

AN ORDINANCE OF THE CITY OF LAS ANIMAS, COLORADO, GRANTING TO H. F. BENSON AND EDGAR G. HILL, THEIR HEIRS, SUCCESSORS AND ASSIGNS, CERTAIN RIGHTS IN THE STREETS, ALLEYS AND PUBLIC PLACES IN THE CITY OF LAS ANIMAS, COLORADO, TO CONSTRUCT, LAY, MAINTAIN, OPERATE, REPAIR REPLACE, AND FINALLY RECLAIM, A SYSTEM OF PIPE LINES AND ALL APPURTENANCES THERETO, FOR THE PURPOSE OF SELLING AND DISTRIBUTING GAS TO THE SAID CITY AND ITS INHABITANTS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAS ANIMAS, COLORADO:

That H. F. Benson and Edgar G. Hill (hereinafter called the "Grantees"), their heirs, successors, and assigns be and they are hereby granted the right to construct, lay, maintain, operate, repair, replace and finally reclaim a system of pipe lines with all valves, regulators, measuring devices and fittings, supply pipes, and laterals, and appurtenances, in the streets, alleys, and public grounds now or hereafter laid out or dedicated, and all extensions thereof and additions thereto, in the said City, for the purpose of supplying natural or artificial gas or a mixture thereof to the said City and its inhabitants, and at the election of the grantees, to patrons and consumers beyond the limits of said city, for light, heat, power, fuel, and all other lawful purposes, under the following terms and conditions, to-wit:

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FIRST: All mains, pipes, laterals extensions, regulators, fittings and appurtenances of every kind and character, shall be installed in such manner and in such places as to interfere as little as practicable with the use of the streets, alleys and public grounds of said city, and such installations shall in every instance be placed below the traveled surface of the streets, alleys or other public grounds and so as to protect all paving, wire cables, water pipes, underground wires or conduits and sewer pipes, and shall be so constructed and located with reference to water lines, sewers and their connections as not to interfere therewith. Main lines shall be placed in the alleys where practicable, and if laid on paved streets locations along and under sidewalks shall be used to avoid cutting pavements, where practicable. The use of such sidewalk locations on unpaved streets is optional with grantees, their heirs, successors and assigns.

SECOND: In the installation of said distributing system and in any further openings in the streets, alleys or other public grounds in said city, the grantees, their heirs, successors and assigns, shall place and maintain suitable and sufficient barriers and lights in and about such openings and shall close the openings as early as the work may reasonably be performed, and in the event of any injury to any person or property by reason of the construction, operation, maintenance, repair or reclamation of said gas distributing system, the said grantees, their heirs, successors and assigns, shall be responsible for their negligence, if any, causing the injury, and in case of such injuries said grantees, their heirs, successors and assigns, shall and will indemnify and hold harmless the said City. The said grantees, their heirs and assigns, shall also clean up, repair and restore without delay all streets, alleys and public grounds opened, and place the same in as good condition as prior to the making of such openings.

THIRD: The grantees, herein, their heirs, successors and assigns, shall not be required to extend street mains more than one hundred and fifty feet (150) for each applicant for gas services, or to extend such mains, in order to reach a group of consumers, more than one hundred and fifty feet (150) for each consumer forming part of such group; but the grantees, their heirs, successors and assigns, shall extend their street mains to all of the built up sections of the city, and to the outlying sections, as soon as and whenever an extension becomes economically practicable.

FOURTH: In rendering service to the customer, the grantees, their heirs, successors and assigns, shall construct the street connection from the street main to the property line of the customer, but the grantees, their, successors and assigns, shall not be required to turn on and deliver gas to the customer until the customer has complied with the rules and regulations of the grantees, their heirs, successors and assigns, including the safe condition of the piping, appliances and fixtures of the consumer to receive such gas, nor shall the grantees, their heirs, successors and assigns, be obliged to continue furnishing gas if and while the customer does not maintain his pipes, fixtures and appliances in good order and condition and or comply with the reasonable rules and regulations of the grantees.

FIFTH: In consideration of, and as compensation for, the granting of, as compensation for, the granting of this franchise, the grantees, their heirs, successors and assigns, agree to supply and distribute natural gas to the City and its inhabitants at fair and reasonable rates, which rates shall be subject to regulation as provided by law.

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SIXTH: The obligation hereunder to furnish natural gas shall last only so long as the said grantees, their heirs, successors and assigns, are able to obtain a sufficient supply of same at such cost as not to make it impracticable to sell natural gas to the City and its inhabitants.

SEVENTH: The grantees, their heirs, successors and assigns, shall within six months (6) from the beginning of the supplying of gas to its customers in said City, prepare and file with the City Clerk a map setting forth in detail its distributing system. The said map shall be brought up to date once each year thereafter.

EIGHTH: It is expressly understood and agreed by and between the City of Las Animas and the said H. F. Benson and Edgar G. Hill that the application for this franchise was and is made upon the express condition and understanding that neither said application nor the grant nor the acceptance of any franchise thereunder or of this franchise shall constitute a waiver either upon the part of said H. F. Benson and Edgar G. Hill or of the City of Las Animas of any rights or claims had or made by either with respect to the occupancy of the streets, alleys and public places of the City of Las Animas under the Constitution and general statutes of the State of Colorado, nor shall anything in said application or in this franchise in any wise prejudice or impair any rights or claims, existing independently of said application and this franchise, of the City of Las Animas or of the said H. F. Benson and Edgar G. Hill, or their predecessors or successors, with respect to the construction, operation and maintenance either before or after the life of this franchise of a system of pipe lines with gates, regulators, measuring devices and fittings, supply pipes and laterals, and appurtenances, in the streets, alleys and and public grounds of said City of Las Animas.

NINTH: This ordinance or franchise is to take effect upon its approval by a vote of the qualified, tax-paying voters of the City, and shall thereafter be in force and effect for a period of twenty-five years (25) from and after such approval by the qualified, tax-paying voters of the City, unless sooner terminated by forfeiture or by voluntary surrender; provided, that the said grantees, H. F. Benson and Edgar G. Hill, shall file with the City Clerk an unconditional acceptance thereof in writing within ninety days (90) after the passage and approval by the said qualified tax-paying voters of the City of this ordinance. Within ten days (10) after the filing of said acceptance the City Clerk, by letter addressed to said H. F. Benson and Edgar G. Hill at Colorado Springs, Colorado, shall acknowledge receipt of said acceptance, in case of non-compliance of this franchise by the grantees, or in case of their failure to begin construction of the distributing system in said City within five months (5) from the date of the passage, and approval of this ordinance by the qualified tax-paying voters of the City, or in case of their failure to begin the distribution of the gas within ten months (10) after the passage and approval of said ordinance, this franchise, and the rights hereby given, shall become void and shall become forfeited to the City, and in all things

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terminated.

TENTH: This ordinance or franchise and all rights and privileges thereunder shall extend to said grantees, their heirs, successors, nominees and assigns, and the consent of the City of Las Animas, Colorado, is hereby given to an assignment or successive assignments hereof.

PASSED on first reading at a regular meeting of the City Council of the City of Las Animas, Colorado, on the 7th day of January, A.D. 1929.

CHAS. H. HASSINGER
Mayor.

ATTEST:

C. M. HALVARSON,
Clerk.

Approved and read this 9th day of April, A. D. 1929.

Chas. H. Hassinger
Mayor.

ATTEST:

C. M. Halvarson
Clerk.

(SEAL)

STATE OF COLORADO,) ss.
COUNTY OF BENT)

I, C.M. Halvarson, City Clerk in and for the City of Las Animas, Colorado, do hereby certify that the foregoing Ordinance No. 267 was read at a regular meeting of the City Council of the City of Las Animas, Colorado, and published in the Bent County Democrat, a weekly newspaper of general circulation published in the City of Las Animas, Colorado, for ten days before its passage, and published once after its passage and approval in said Bent County Democrat.

In Witness Whereof I have hereunto set my hand and affixed the Official Seal of the City of Las Animas, Colorado, this 9th day of April A.D. 1929.

City Clerk